Big Banks, Big Overdraft Fees

The CFPB Defends Consumers Against Harmful and Deceptive Fees

FRONTIER GROUP

Maryland PIRG Foundation

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Executive Summary

Overdraft fees are a major source of consumer pain, since they are borne disproportionately by Americans with few financial resources.

Since 2015, the Federal Financial Institutions Examination Council (FFIEC) has required banks with more than $1 billion in assets to report revenue from overdraft-related service charges, a category that also includes nonsufficient funds (NSF) charges (or fees for bounced checks). According to the Center for Responsible Lending, U.S. consumers paid $17 billion in overdraft and NSF fees in 2015, which amounts to $53 for every American.

Through the first three quarters of 2016, 626 large banks reported collecting $8.4 billion in revenue from overdraft and NSF fees, an increase of 3.6 percent over the same period in 2015. American consumers should look to the Consumer Financial Protection Bureau (CFPB), which has already enforced overdraft regulations and returned millions of dollars to consumers, to take new action to prevent unfair overdraft fees.

Reported overdraft and non-sufficient fund (NSF) revenue per account is on the rise.

- The average bank collected $17.76 in overdraft/NSF fee revenue per consumer deposit account in the first three quarters of 2016, an increase of 2.6 percent over the same period in 2015.

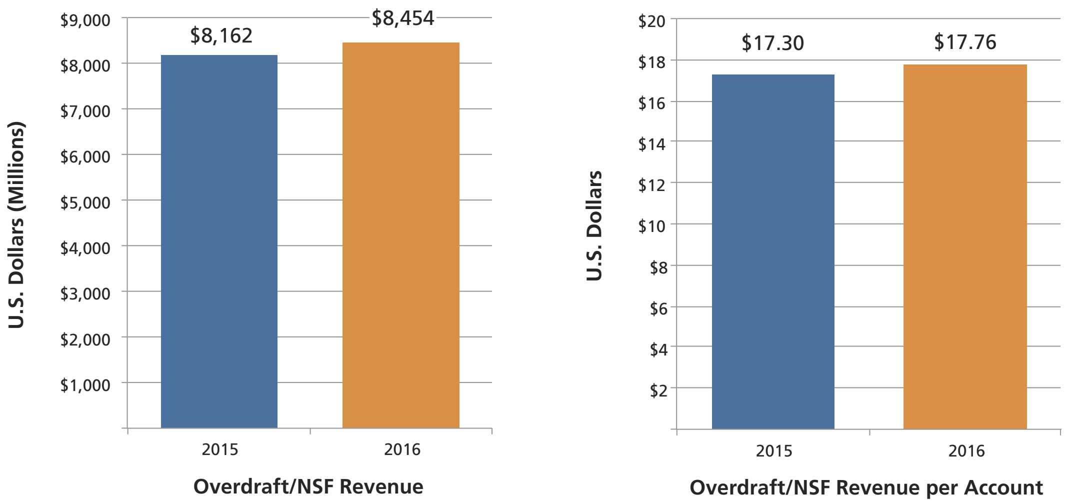
- In the first three quarters of 2016, overdraft/NSF fee revenue accounted for an average of 8.1 percent of reporting banks' net income, unchanged from the same period in 2015.

Ten banks account for 67 percent of reported overdraft/NSF revenue. These banks include both some of the nation's largest banks, as well as smaller banks that are unusually reliant on overdraft/NSF fee revenue.

- The 10 banks that collected the most overdraft revenue through the first three quarters of 2016, in order, were: Chase Bank, Wells Fargo, Bank of America, TD Bank, U.S. Bank, PNC Bank, Suntrust Bank, Regions Bank, Branch Banking and Trust, and Woodforest National Bank.

- These 10 banks primarily consist of large national consumer banks, which

Figure ES-1. In the First Three Quarters of 2016 Banks Increased Total Overdraft/NSF Revenue and Revenue per Account



(For fees collected in first three quarters of 2015 and 2016)

could be expected to collect the most overdraft revenue. Woodforest Bank is the notable exception, with less than a fifth the number of total deposit accounts of any other Top 10 bank.

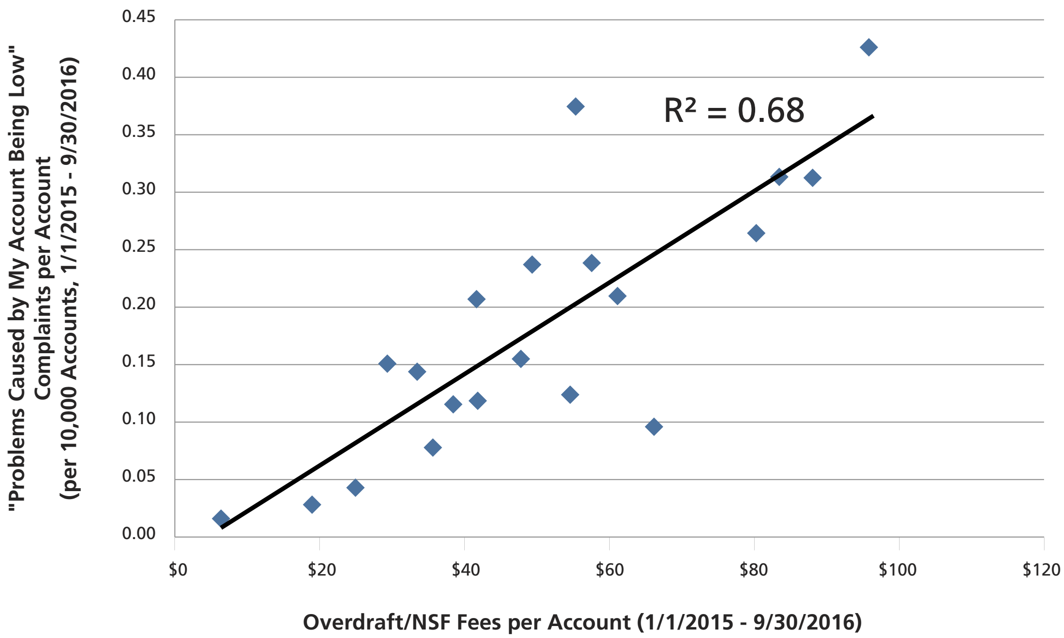
Many banks with the highest overdraft revenue per account rely heavily on overdraft revenue.

- The 10 banks that collected the most overdraft/NSF revenue per account through the first three quarters of 2016, in order, were: Ameris Bank (based in Georgia), ACNB Bank (Pennsylvania), Armed Forces Bank (Kansas), Woodforest National Bank (Texas), BankPlus (Mississippi), First National Bank Texas - First Convenience Bank (Texas), Ocean Bank (Florida), Planters Bank (Mississippi), Gate City Bank (North Dakota), and First Community Bank (Virginia).
- These banks collected an average of $98 in overdraft revenue per non-retirement deposit account, more than five times the national average. Five of the ten banks would have seen a net income loss in the first three quarters of 2016 without overdraft revenue.

Banks supervised by the CFPB collect less overdraft fee revenue per account. Since 2011, banks with more than $10 billion have been supervised directly by the CFPB, a federal agency created for the sole purpose of protecting consumers in the financial marketplace.

In the first three quarters of 2016, 94 banks under CFPB supervision that reported fee revenue collected $17.27 in overdraft revenue per account, compared to $21.36 per account for the 532 other banks that reported revenue. There are likely factors beyond CFPB supervision that could account for this difference.

Fig ES-2. Banks with More Overdraft/NSF Fee Revenue Generally See More Consumer Complaints, Per Account (Among Banks with More than 100 CFPB Complaints for "Problems Caused by My Account Being Low")



Nevertheless, lower revenue per account at large banks suggests that the CFPB's supervisory program is helping protect consumers from unfair overdraft fees.

CFPB data reveals a positive correlation between overdraft/NSF revenue per account and complaints per account.

The CFPB allows consumers to file complaints about banks. An analysis of bank complaints about "Problems related to my funds being low" reveals a positive correlation (R^2 = 0.68) between number of complaints per account, and overdraft/NSF revenue per account. For this analysis, both complaints and overdraft fees are from the period January 1, 2015, to September 30, 2016, the longest period for which overdraft fee data is available.

Complaints per bank likely depend on a number of factors, including the customer base of each bank. However, this relationship suggests that fees per account and complaints per account may be useful indicators for finding bank mistreatment of customers. This relationship also supports the Federal Deposit Insurance Corporation's assertion that high overdraft fees may harm public opinion of banks, posing a "reputational risk."

The Consumer Financial Protection Bureau (CFPB) is working to protect consumers from unfair overdraft fees, including by enforcing existing regulations, requiring banks to return money to consumers that was collected unfairly, and urging banks to offer low-risk accounts designed to help consumers avoid overdraft fees.

The CFPB should continue its efforts to protect consumers, including by seeking a ban on the bank practice of reordering account transactions to maximize revenue. Federal policymakers should defend the CFPB against attempts to eliminate it, and should continue to ensure the CFPB has the resources, independence, and tools at its disposal to effectively protect consumers from overdraft fees, as well as from other predatory financial behavior.

Overdraft Fees Harm Consumers

When a consumer writes a check, or purchases an item with a debit card for more money than he or she has in her checking account, that is called an overdraft. Historically, a consumer writing a bad check would have that check returned and be charged a nonsufficient funds (NSF) fee, while a consumer attempting to purchase an item with a debit card or withdraw money from an ATM in excess of his or her checking account balance would have that transaction denied.

Today, however, many banks allow consumers to withdraw money from their checking account in excess of their current account balance, avoiding a denial of transaction. Customers who overdraw their accounts are loaned money to cover their transaction until such time as they restore a positive balance in their account, and are charged a fee for the convenience of the loan.

In 2015, according to an estimate by the Center for Responsible Lending, Americans paid $17 billion in overdraft and nonsufficient funds (NSF) fees (NSF fees are included with overdraft fees in bank reporting).[1] That is the equivalent of $53 for every American, or $166 per U.S. household with a bank account.[2]

Banks with overdraft protection services vary in the size and types of fees they charge, the maximum number of fees assessed per day, and the degree to which the bank engage in "reordering," in which banks process large transactions first, pushing an account balance below zero, causing subsequently processed smaller transactions to then each incur a fee. Bank of America, for example, charges $35 per overdraft item, up to a maximum of $140 per day.[3] According to one 2011 study, two thirds of banks also charge "sustained" overdraft fees, for accounts that remain overdrawn for a set period of time.[4] Citizens Bank charges a $30 sustained overdraft fee on accounts that remain overdrawn for four consecutive business days, and will charge two more such fees after the eighth and eleventh days.[5]

Reordering of transactions, meanwhile, remains legal, although a series of class action lawsuits resulted in large settlements by banks that engaged in the practice. Banks merely need to acknowledge the practice in their fine print.[6] According to a 2015 survey by the Pew Charitable Trusts, nearly half of all banks engaged in reordering at least occasionally.[7] However, the Pew study also found that the percentage of banks who engage in reordering has declined in recent years, perhaps in part due to numerous class-action lawsuits over transaction reordering practices.

Since July 1, 2010, financial institutions have been barred from charging consumers overdraft fees on their debit cards at point of sale or ATM withdrawals unless the consumer consents, or "opts in," to an overdraft service; this "opt in" requirement does not apply to overdraft fees charged for other transactions, including check and online bill payments. Since the "opt in" rule took effect, the CFPB has found wide variation by bank in the fraction of new account holders that join overdraft protection programs, suggesting that some banks are more aggressive in their marketing of these programs.[8]

Although a single overdraft fee of $35 may be seen by some consumers as a small expense, most consumers that pay one overdraft fee will pay more over the course of a given year. According to a Consumer Financial Protection Bureau (CFPB) study of a selection of banks, consumers who incurred at least one overdraft fee in 2011 paid an average of $225 in total overdraft fees over the course of that year.[9] Assuming a $35 overdraft fee, typical at many large banks, that comes out to more than six overdraft fees in one year.

Overdraft fees also likely force or keep many households out of the American banking system altogether. In 2015, approximately 9 million households in the U.S. were "unbanked," meaning they did not have a bank account.[10] Households without a bank account miss out on important financial services, including safe and secure ways to save their money. Overdraft fees are one of many types of fees that can discourage people, especially those with low incomes, from getting or keeping bank accounts. A Pew Charitable Trusts survey in 2016 found that the size and unpredictability of overdraft fees was the most common reason that unbanked participants had lost or closed their bank accounts.[11] And of respondents to a 2015 FDIC survey of unbanked households, 49 percent reported that the main reason why they were unbanked was either that they did have enough money to keep an account, the account fees were too high, or the account fees were unpredictable.[12]

The CFPB Is Protecting Consumers from Overdraft Fees

Since its creation in the wake of the 2008 financial crisis, the CFPB has delivered on its stated mission to "protect consumers from unfair, deceptive, or abusive practices and take action against companies that break the law."[13] Since it began operations in 2011, the CFPB has:

- Provided more than $12 billion in relief for more than 27 million consumers;[14]

- Protected service members, older Americans, and students from tricks and traps in the financial marketplace. The CFPB's successes include providing $2.5 million in relief to service members after taking action against a company for illegal debt collection actions, and providing $480 million to students wronged by a for-profit chain of colleges;[15]

- Created new final rules to protect consumers, including a rule to simplify mortgage disclosures, replacing four complicated disclosure forms with two easy-to-read ones.[16] Its most recent rule from October 2016 covers the previously largely unregulated prepaid card space.[17]

The CFPB has also taken specific actions to protect Americans from unfair overdraft fees.

Enforcing consumer finance law, including the overdraft "opt-in" requirement: Since July 1, 2010, financial institutions have been barred from charging consumers overdraft fees on their debit cards at point of sale unless the consumer consents, or "opts in," to an overdraft service.[18] The CFPB has enforced this rule and fined institutions that break it. For example, in April 2015, the CFPB found that Regions Bank had illegally enrolled hundreds of thousands of customers in its overdraft program, charging those customers at least $49 million in fees.[19] The CFPB forced Regions Bank to issue refunds to all of its improperly charged customers, levied an additional fine of $7.5 million, and required Regions Bank to fix any instances of negative customer credit scores resulting from the overdraft fees.

Urging banks to offer low-risk accounts without overdraft fees: On February 3, 2016, the CFPB sent a letter to the 25 largest American retail banks urging them to offer and advertise low-risk accounts – specifically, accounts designed to help consumers avoid paying overdraft fees.[20] Although some accounts bear other risks, like "bounced check" NSF fees, the CFPB letter highlights the importance of helping consumers avoid overdraft fees. The letter followed CFPB research which found that while some of the top retail banks offer "no-overdraft" accounts, nearly half do not.[21]

Protecting consumers from inaccurate overdraft fee reporting: Banks rely on databases of consumer data, including information on past overdraft charges and negative account balances, when determining whether to offer an account to a new customer. Inaccurate reports can result in consumers being denied access to a new bank account. On February 3, 2016, the CFPB issued a bulletin warning that failure to follow standards of consumer data reporting accuracy could result in the CFPB taking enforcement action.[22]

Bank Overdraft Revenue Is on the Rise

Since the beginning of 2015 the Federal Financial Institutions Examination Council (FFIEC) has required banks with more than $1 billion in assets (more than 620 banks as of September 2016, holding 86 percent of consumer deposit accounts in the U.S.) to report overdraft fee revenue collected from customers.[23] The "overdraft-related service charges" reported by banks also include nonsufficient funds (NSF) charges – fees for bounced checks and returned direct debit transfers like online bill payment – which the Center for Responsible Lending estimates make up about 19 percent of reported fees in this category.[24]

An analysis of bank data reported to the FFIEC through the first three quarters of 2016 reveals the following: [25]

Bank overdraft/NSF fee revenue is increasing.

- Nationally, through the first three quarters of 2016, 626 banks over with over $1 billion in assets reported collecting $8.4 billion in overdraft/NSF revenue, an increase of 3.6 percent over the same period in 2015.

Bank overdraft/NSF revenue per account is increasing.

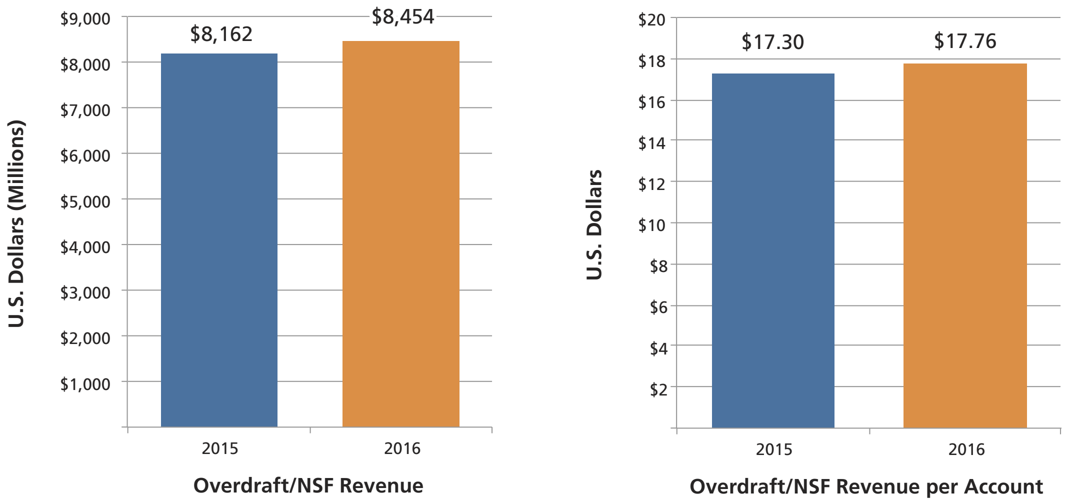
- The average bank collected $17.76 in overdraft fee revenue per non-retirement consumer deposit account through the first three quarters of 2016, an increase of 2.6 percent over the same period in 2015.[26]

- Woodforest Bank, which as of 2013 located 89 percent of its bank branches in Walmart stores, collected an average of $108.16 in overdraft revenue per deposit account through the first three quarters of 2016, ranking it third nationally and first among banks with at least 1 million deposit accounts.[27]

Some banks would incur a loss without overdraft/NSF revenue.

- In the first three quarters of 2016, among banks with more than $1 billion in assets, overdraft fee revenue accounted for an average of 8.1 percent of banks' net income, remaining unchanged from 2015.

Figure 1. In 2016 Banks Saw Small Increases in Total Overdraft/NSF Revenue and OD/NSF Revenue per Account[28]



(For fees collected in first three quarters of 2015 and 2016)

- Five of these banks would have incurred a loss without overdraft fees. At First Convenience Bank – another "Walmart bank" highlighted by the *Wall Street Journal* – overdraft fees accounted for 663 percent of the bank's net income.

The Top 10 Overdraft Banks Include Big Banks and Banks that Are Highly Reliant on Overdraft Revenue

The banks that collected the most overdraft revenue from their customers through the first three quarters of 2016 were: Chase Bank, Wells Fargo, Bank of America, TD Bank, U.S. Bank, PNC Bank, Suntrust Bank, Regions Bank, Branch Banking and Trust, and Woodforest National Bank.

The Top 10 overdraft banks primarily consist of large national consumer banks, which could be expected to collect the most overdraft revenue. Woodforest Bank is the notable exception, with less than a fifth the number of total deposit accounts of any other Top 10 bank. Nevertheless, FFIEC data suggest that in general the biggest overdraft banks are increasing overdraft revenue faster, are more reliant on overdraft revenue as a percentage of net income, and collect more overdraft revenue per account, than the typical U.S. bank.

Many of the Top 10 overdraft banks collect more overdraft revenue per account, and have seen faster overdraft revenue growth, than the national average.

- The Top 10 overdraft banks collected $5.7 billion in overdraft/NSF revenues through the first three quarters of 2016, a 4.3 percent increase over revenue collected through the first three quarters of 2015 (compared to a national average 3.6 percent increase). This accounts for 67 percent of reported overdraft revenue reported by all banks.

- Eight of the Top 10 overdraft banks collected more revenue per account than

Table 1. U.S. Banks Ranked By Most Overdraft/NSF Fees Collected Through Q3 2016[29]

	Bank Name	Overdraft/NSF Revenue (millions)	Overdraft/NSF Revenue per Account
1	Chase Bank	$1,409	$28.46
2	Wells Fargo	$1,316	$15.91
3	Bank of America	$1,219	$17.90
4	TD Bank	$344	$26.12
5	U.S. Bank	$335	$20.60
6	PNC Bank	$267	$14.43
7	SunTrust Bank	$243	$37.39
8	Regions Bank	$242	$37.19
9	Branch Banking and Trust	$191	$25.40
10	Woodforest Bank	$125	$108.16

the national average. Some large national banks, including Bank of America and Wells Fargo, have overdraft/NSF revenue per account in line with, or slightly below, the national average. However, Chase and TD Bank, which are among the nation's largest banks and rank first and fourth respectively for total overdraft revenue collected, collected overdraft revenue per account well above the national average: Through the first three quarters of 2016, Chase Bank collected $28.46 per account, and TD Bank collected $26.12, compared to the national average of $17.76 per account.

- Nine of the Top 10 banks rely more on overdraft fee revenue than the national average. At Woodforest Bank, TD Bank, and Regions Bank, overdraft revenue accounted for 200 percent, 35 percent, and 25 percent, respectively, of the banks' net income, compared to the national average of 8 percent.

- Wells Fargo collected 10 percent more overdraft fee revenue in the first three quarters of 2016 than the same period in 2015, experiencing faster overdraft fee growth than any other Top 10 bank.

Some Banks Are Extremely Reliant on Overdraft Fees

The 10 banks that collected the most overdraft/NSF revenue per account through the first three quarters of 2016 were Ameris Bank, ACNB Bank, Armed Forces Bank, Woodforest National Bank, BankPlus, First National Bank Texas - First Convenience Bank, Ocean Bank, Planters Bank, Gate City Bank, and First Community Bank.

These banks collected an average of $98 per non-retirement consumer deposit account, more than five times the national average. The banks in this list are varied, including state- and nationally-chartered banks, and range from holding just 9,000 to more than 1 million accounts. Yet all of the banks rely more on overdraft revenue as a percentage of net income than the national average. And five of the 10 banks would have seen a net income loss through the first three quarters of 2016 without overdraft revenue, including First Convenience Bank, for which overdraft revenue accounted for 663 percent of net income.

Table 2. Banks Collecting the Most Overdraft/NSF Revenue per Account through First Three Quarters of 2016[30]

	Bank Name (State)	Overdraft/ NSF Revenue per Account	Overdraft/ NSF Revenue (thousands)	Overdraft/NSF Revenue As Percentage of Net Income
1	Ameris Bank (Georgia)	$176.18	$21,738	37%
2	ACNB Bank (Pennsylvania)	$131.55	$1,157	15%
3	Armed Forces Bank (Kansas)	$117.47	$13,856	200%
4	Woodforest National Bank (Texas)	$108.16	$125,334	200%
5	BankPlus (Mississippi)	$92.39	$16,459	100%
6	First National Bank Texas - First Convenience Bank (Texas)	$88.65	$77,168	663%
7	Ocean Bank (Florida)	$69.81	$4,799	26%
8	Planters Bank (Mississippi)	$68.34	$2,881	35%
9	Gate City Bank (North Dakota)	$65.93	$12,322	125%
10	First Community Bank (Virginia)	$61.58	$7,369	37%
	National Average	$17.76	$13,505	8%

Banks Supervised by the CFPB Collect Less Overdraft Fee Revenue per Account

U.S. banks each have a primary regulator that supervises their activities. National banks are regulated by the Office of the Comptroller of the Currency, state-chartered banks that are members of the Federal Reserve System are regulated by the Federal Reserve Board, and other state-chartered banks are regulated by the Federal Deposit Insurance Corporation.

Since 2011, banks with more than $10 billion in assets have also been supervised for their compliance with consumer laws directly by the Consumer Financial Protection Bureau (CFPB), a federal agency created for the sole purpose of protecting consumers in the financial marketplace. The supervisory program of the CFPB includes "data analysis, on-site examinations, and regular communication with regulated entities," along with an assessment of "each institution's internal ability to detect, prevent, and remedy violations that may harm consumers."[31] The CFPB also has broad authority to bring enforcement actions against banks that treat their customers unfairly. With its enforcement powers and a narrow focus on protecting consumers, the CFPB's supervision program has the tools to prevent unfair treatment of bank customers.

In the first three quarters of 2016, the 94 banks under CFPB supervision that also reported fee revenue collected an average of $17.27 in overdraft revenue per account, compared to $21.36 per account for the 532 non-CFPB supervised banks that reported fee revenue.[32] There are likely factors beyond CFPB supervision that could account for this difference. Nevertheless, lower overdraft fee revenue per account at large banks suggests that the CFPB's supervisory program is helping protect consumers from unfair fees.

CFPB Data Reveals a Correlation Between Overdraft Revenue per Account and Complaints per Account

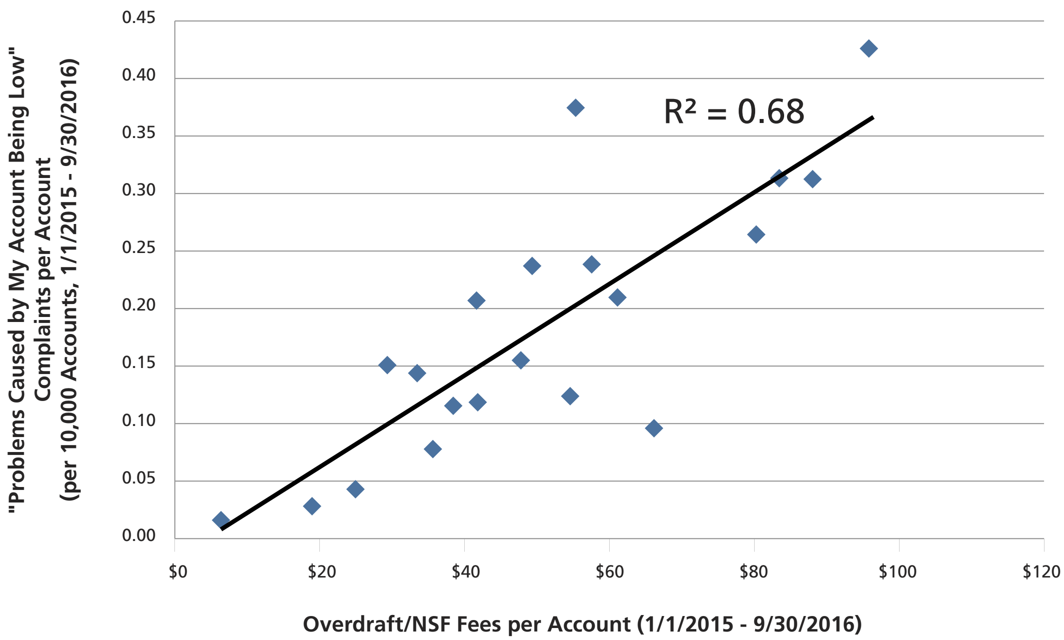
The CFPB allows consumers to submit complaints stemming from their interactions with financial companies, and makes complaint data available online for analysis by the public.

From March 1, 2012, through November 14, 2016, there were 10,617 complaints submitted to the CFPB in the category "Bank Account/ Service" with the issue "Problems Caused by My Account Being Low." Over that time period, Bank of America, Wells Fargo, and Chase Bank were the most-complained-about companies in that category. Of the 10 most complained about banks, nine are also among the Top 10 banks for overdraft/NSF revenue collected through the first three quarters of 2015.

A chart plotting complaints per bank account (for banks with more than 40 complaints) against fees per bank account shows that banks that collect more revenue per account tend to also see more consumer complaints per account. For this analysis, complaints and overdraft fees were added from the period January 1, 2015, to September 30, 2016, the longest period for which overdraft fee data is available.[33] This relationship is supported by a strong correlation between the two values (R^2 of 0.68).

In Fig 2. below, TCF National Bank has the highest number of complaints per account (0.43 per 10,000 accounts for complaints from 1/1/2015 to 9/30/2016), and the highest overdraft/NSF revenue per account ($95.82 from 1/1/2015 to 9/30/2016), while CitiBank has the lowest number of complaints per account (0.02 per 10,000 accounts) and lowest overdraft/NSF revenue per account ($6.38). CitiBank has never charged overdraft fees for ATM or point-of-sale debit card transactions, and was among the first banks to end the practice of high-to-low transaction reordering for check overdraft transactions.[34]

Fig 2. Banks with More Overdraft/NSF Fee Revenue Generally See More Consumer Complaints, per Account (Among Banks with More than 40 CFPB Complaints for "Problems Caused by My Account Being Low")[36]



Complaints per bank likely depend on a number of factors, including the customer base of each bank. However, this relationship suggests that fees per account and complaints per account may be useful indicators for finding bank mistreatment of customers. This relationship also supports the FDIC's assertion that high overdraft fees may harm public opinion of banks, posing a "reputational risk."[35]

For "Low Account" Issues, Wells Fargo Is the Most Complained-About Bank in 15 States

For most complaints in its database, the CFPB includes the state the complaint was made in, allowing an analysis of the most complained about bank per state.

While the most-complained-about bank for "Issues caused by my account being low" varies by state, Wells Fargo and Bank of America are the two banks that received the most complaints in the most states: Wells Fargo received the most complaints in 15 states, and Bank of America received the most complaints in 7 states. These are also among the largest banks in many states.

Table 3. Complaints per Account, Fees per Account, and Total Complaints for "Problems Caused by My Account Being Low" (for Banks with More than 40 Complaints, Between 1/1/2015 and 9/30/2016)

Bank Name	"Problems Caused by My Account Being Low" Complaints Per 10,000 Accounts	Overdraft/NSF Fees Per Account	Total Complaints
TCF National Bank	0.43	$95.82	83
Citizens Financial Group, Inc.	0.37	$55.34	174
SunTrust Banks, Inc.	0.31	$83.44	204
Regions Financial Corporation	0.31	$88.05	203
BBVA Compass	0.26	$80.27	61
BB&T Financial	0.24	$57.55	179
KeyCorp	0.24	$49.33	74
TD Bank US Holding Company	0.21	$61.11	276
Fifth Third Financial Corporation	0.21	$41.65	113
U.S. Bancorp	0.15	$47.77	252
Santander Bank US	0.15	$29.34	48
PNC Bank N.A.	0.14	$33.46	266
M&T Bank Corporation	0.12	$54.58	47
Bank of America	0.12	$41.82	807
The Huntington National Bank	0.12	$38.44	55
JPMorgan Chase & Co.	0.10	$66.16	475
Wells Fargo & Company	0.08	$35.62	644
USAA Savings	0.04	$24.94	45
Capital One	0.03	$18.95	42
Citibank	0.02	$6.38	49

Table 4. Top Complained-About Company for Each State, for "Problems Caused by My Account Being Low." (for Complaints Between 3/1/2012 and 11/14/2016)[37]

State	Company	Complaints
AK	Wells Fargo & Company	2
AL	Regions Financial Corporation	58
AR	Regions Financial Corporation	14
AZ	Wells Fargo & Company	47
CA	Bank of America	328
CO	Wells Fargo & Company	37
CT	TD Bank US Holding Company	33
DC	Bank of America	20
DE	PNC Bank, TD Bank	18
FL	Bank of America	183
GA	Wells Fargo & Company	110
HI	Bank of Hawaii	6
IA	Wells Fargo & Company	21
ID	Wells Fargo & Company	9
IL	TCF National Bank	101
IN	PNC Bank N.A.	27
KS	Bank of America	15
KY	PNC Bank N.A.	20
LA	Regions Financial Corporation	31
MA	Citizens Financial Group, Inc.	108
MD	Bank of America	62
ME	TD Bank US Holding Company	29
MI	JPMorgan Chase & Co.	41
MN	TCF National Bank	58
MO	U.S. Bancorp	38
MS	Regions Financial Corporation	28
MT	U.S. Bancorp	3
NC	Bank of America, Wells Fargo	64
ND	Wells Fargo & Company	4
NE	Wells Fargo & Company	15
NH	Citizens Financial Group, Inc.	24
NJ	TD Bank US Holding Company	162
NM	Wells Fargo & Company	17
NV	Wells Fargo & Company	30
NY	TD Bank US Holding Company	165
OH	PNC Bank, Huntington National Bank	72
OK	BOK Financial Corp	15
OR	U.S. Bancorp	32
PA	PNC Bank N.A.	128
RI	Citizens Financial Group, Inc.	53
SC	Wells Fargo & Company	34
SD	Wells Fargo & Company	6
TN	Regions Financial Corporation	68
TX	Wells Fargo & Company	142
UT	JPMorgan Chase & Co.	10
VA	Wells Fargo & Company	65
VT	Citizens Financial Group, Inc.	8
WA	Bank of America	40
WI	U.S. Bancorp	22
WV	BB&T Financial	12
WY	BBVA Compass, U.S. Bank, CitiBank, BMO Harris Bank	1

Conclusion and Recommendations

Overdraft fees are a major source of pain for American consumers, hurting consumers with limited financial resources and sometimes forcing them out of the banking system altogether. Even worse, some overdraft fees are promoted misleadingly, and many banks continue to reorder transactions in order to maximize fee revenue.

Fortunately, America's financial regulators have the means to help. For example, a regulation issued in 2010 prohibited banks from automatically enrolling their customers in overdraft programs, and has helped agencies like the CFPB protect consumers from unfair fees.

The CFPB should continue to protect consumers from unfair overdraft fees, and should:

- Restrict the bank practice of reordering transactions in order to maximize overdraft fees;
- Consider additional limitations on overdraft fees, including a ban on "continuous" overdraft fees that assess a penalty on accounts that are overdrawn for a set amount of time;
- Continue urging banks to offer low-risk accounts without overdraft fees;
- Continue enforcing existing bank regulations, and ensure that no consumers are being automatically enrolled in overdraft protection programs;
- Complete its consideration of a strong Overdraft Rule.

The CFPB should also improve its complaint database to make analysis of complaints easier and more useful. To do so, the CFPB should:

- Ensure that complaint data can be easily matched with FFIEC fee data, for example by logging each bank's unique RSSD ID code with every complaint.
- Allow more granular tagging and sorting of complaint data, including by allowing users to tag fee types in their complaints.

Among other efforts to protect the public, the CFPB should:

- Complete strong rules reining in predatory short term lending and forced arbitration in consumer contracts.

- Complete a rule reforming the debt collection marketplace.

- Continue to use the information gathered from the Consumer Complaint Database, from supervisory and examination findings and from other sources to require a high, uniform level of consumer protection and to ensure that responsible industry players can better compete with those who are using harmful practices.

Finally, federal policymakers should defend the CFPB against attempts to eliminate it, and should continue to ensure the CFPB has the resources, independence, and tools at its disposal to effectively protect consumers from overdraft fees, as well as from other predatory financial behavior.

Notes

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2 $140 for every banked household based on US census data for number of US households over 2010-2014 period (116,211,092), and assuming 88 percent of US households have a bank account, based on the combined percentage of fully- and under- banked households in: Susan Burhouse et al., Federal Deposit Insurance Corporation, *FDIC National Survey of Unbanked and Underbanked Households*, 20 October 2016.

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4 Jean Ann Fox, Consumer Federation of America, *2011 CFA Survey of Big Bank Overdraft Loan Fees and Terms*, 3 August 2011.

5 Citizens Bank, *Overdraft Frequently Asked Questions*, archived at web.archive.org/web/20161026180705/https://www.citizensbank.com/overdraft-protection/overdraft-protection-faqs.aspx.

6 Michael Corkery and Jessica Silver-Greenberg, "Overdraft Practices Continue to Gut Bank Accounts and Haunt Customers," *The New York Times*, 28 February 2016.

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8 CFPB, *CFPB Compliance Bulletin 2016-03*, 28 November 2016; and CFPB, *CFPB Study of Overdraft Programs*, June 2013.

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18 Code of Federal Regualations 12 § 1005.17 (Regulation E), effective date 28 October 2013.

19 Consumer Financial Protection Bureau, *CFPB Fines Regions Bank $7.5 Million for Unlawful Overdraft Practices (press release)*, 28 April 2015.

20 Consumer Financial Protection Bureau, *CFPB Takes Steps to Improve Checking Account Access (press release)*, 3 February 2015.

21 Ibid.

22 Ibid.

23 Federal Financial Institutions Examination Council, *Draft FFIEC 031 and FFIEC 041 Call Report Reporting Changes to Schedule RI for March 31, 2015: New Memorandum Item 15, "Service charges on deposit accounts (in domestic offices)"*, available at ffiec.gov/pdf/ffiec_forms/FFIEC031_FFIEC041_20141229_fi_draft.pdf, 28 December 2014.

24 Rebecca Borné, Peter Smith, and Rachel Anderson, Center for Responsible Lending, *How Overdraft Fees Harm Consumers and Discourage Responsible Bank Products*, May 2016.

25 In this section, "banks" refer only to banks that report overdraft fee revenue. Only banks with more than $1 billion in total assets are required to report. FFIEC call report data for the periods 9/30/2016, and 9/30/2015 (for comparison) downloaded from cdr.ffiec.gov/public/.

26 "Account" refers to number of deposit accounts, excluding retirement accounts, as found in FFIEC call report lines RCONF050 and RCONF052. According to the FFIEC, each "certificate, passbook, account, and other evidence of deposit" is treated as a separate account: FFIEC, *Instructions for Preparation of Consolidated Reports of Condition and Income (FFIEC 031 and 041)*, September 2016.

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28 Overdraft fee data from FFIEC bank call reports. "Overdraft-related service charges" include both overdraft fees, and non-sufficient fund charges from bounced checks and returned Automated Clearing House (ACH) transactions, including direct debit transfers for bill payments. Accounts include all non-retirement accounts.

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37 Based on CFPB complaint data through 14 November 2016. Multiple states listed for states where banks tied for most complaints.